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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,279	10/03/2003	Yutaka Murakami	03500.011761.1	8735
5514	7590	10/14/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			GARCIA, GABRIEL I	
			ART UNIT	PAPER NUMBER
			2624	

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/677,279	MURAKAMI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Gabriel I Garcia	2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 54-73 is/are pending in the application.
  - ↳ 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 54-73 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. 08/736,245.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/3/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Double Patenting***

2 Claims 54-73 are rejected under the judicially created doctrine of the obviousness type double patenting of the claims in applicant's prior United States Patent No. 6,762,854. Although the designs are not identical, they are not patentably distinct from each other because both the pending application and the Applications claims are directed to the same invention, a printing apparatus using a cartridge that contains a recording material. (e.g. claim 54 from the application teaches warning means, control means, and calculating means. These features are describe in the claim 1 of US patent No. 6,762,854). The obviousness type double patenting rejection is a judicially established doctrine based on public policy, and is primarily intended to prevent prolongation of monopoly by prohibiting a claim in a second patent not patentably distinguishable from a claim in a first patent.

A timely filed terminal disclaimer will obviate this rejection. (MPEP... § 1490) *In re Vogel*, 164 USPQ 619 (CCPA 1970).

***Conclusion***

3 The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lund et al. (5,785,844) teaches an end of life mechanism for water treatment cartridge.

Beck(5,760,795) teaches a system for overriding a low marking material status in a facsimile environment.

Shibata (5,589,861) teaches a cleaner cartridge for an inkjet printing mechanism.

Yamaguchi et al. (5,021,828) teaches a copying apparatus having a consumable part.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Gabriel I. Garcia** whose telephone number is (703) 305-8751. The examiner can normally be reached Monday-Thursday from 7:30 AM-6:00 PM. The fax phone numbers for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Serial Number: 10/677,279

Art Unit: 2624

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Gabriel I. Garcia  
Primary Examiner  
September 18, 2004

*Gabriel Garcia*  
GABRIEL GARCIA  
PRIMARY EXAMINER